

Date Mailed March 28, 2001
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BEFORE THE  
PUBLIC SERVICE COMMISSION OF WISCONSIN

Application of WPS Power Development, Inc., for Approval  
to Own and Operate One or More Wholesale Merchant Plants  
and Request for Declaratory Ruling

9300-DR-101

**AMENDED NOTICE OF PROCEEDING  
AND  
INVESTIGATION AND ASSESSMENT OF COSTS**

Comments Due:  
**Friday, April 6, 2001 – Noon**

FAX Due:  
**Thursday, April 5, 2001 – Noon**

Address Comments To:  
Randel A. Pilo, Case Coordinator  
Electric Division  
Public Service Commission  
P.O. Box 7854  
Madison, WI 53707-7854  
FAX (608) 266-3957

**THIS IS A PROCEEDING** on an application for approval to own and operate, through one or more wholly-owned subsidiaries, one or more wholesale merchant plants having a combined generating capacity of up to 100 megawatts in eastern Wisconsin and for a declaratory ruling, pursuant to Wis. Admin. Code § PSC 100.13(4). The application was filed February 19, 2001, by WPS Power Development, Inc. (WPS-PDI).

The application alleges that WPS-PDI has entered into an agreement with Appleton Coated, LLC, a paper manufacturer, to develop a cogeneration facility at Appleton Coated's paper mill. The facility would be located in Combined Locks, Wisconsin, and be known as the Combined Locks Energy Center (the Energy Center).

The facility would be comprised of a natural gas-fired combustion turbine and a heat recovery steam generator, with a nominal electric generating capacity of 50 megawatts producing up to 200,000 lbs.\hr. of steam for Appleton Coated's papermaking operations. Commercial operation would begin in the fall of 2001. WPS-PDI would design, construct, own, and operate the Energy Center through a wholly owned subsidiary.

The application also asks the Commission to issue a declaratory ruling pursuant to Wis. Admin. Code § PSC 100.13(4), that WPS-PDI's ownership, control, and operation of the Energy Center, with a total electric generating capacity of up to 100 megawatts, would not have a substantial anti-competitive effect on electricity markets for any classes of customers.

The Commission considers the WPS-PDI application complete pursuant to Wis. Admin. Code § PSC 100.13(4).

The Commission hereby opens an investigation of the facts and circumstances presented in the application insofar as it seeks approval to own and operate the Energy Center. The Commission also hereby agrees to render a declaratory ruling on the potential substantial anti-competitive effect on electricity markets of the Energy Center.

The Commission requests comments on the application. For purposes of those comments, persons shall assume the following statement of facts:

1. WPS-PDI is a wholly owned subsidiary of WPS Resources Corporation (WPSR), a Wisconsin public utility holding company. Another of WPSR's wholly owned subsidiaries is Wisconsin Public Service Corporation (WPSC), a Wisconsin electric and natural gas utility. WPS-PDI is, therefore, an affiliated interest of a public utility as defined by Wis. Stat. §§ 196.491(1)(am) and 196.52(1).

2. For the years 2002 and 2003, WPSC will own and operate 2,097 megawatts of electric generating capacity, which represents 15 percent of the total electric generating capacity in eastern Wisconsin. WPS-PDI's proposed unit, with a total electric generating capacity of up to 100 megawatts, would constitute less than one percent of the total electric generating capacity in eastern Wisconsin. The Federal Energy Regulatory Commission (FERC) has indicated that the eastern Wisconsin area known as the Wisconsin Upper Michigan System is an island system due to transmission constraints and, as such, constitutes a relevant electricity market. (IES Utilities, Inc., et al., 81 FERC § 61,187 (1997)).

3. The applicant's market power screen for the relevant electricity market, as required by Wis. Admin. Code § PSC 100.15, indicates that its ownership, control, and operation of up to 100 megawatts of electric generating capacity in eastern Wisconsin will lead to an increase of between 16 and 25 points in the Herfindahl-Hirschman Index (HHI). Under Wis. Admin. Code § PSC 100.13(1) an appropriate horizontal market power safe harbor exists, as long as the change in the HHI statistic is less than 50 points, and the applicant's public utility affiliate has divested its interest in transmission facilities to an independent transmission system owner.

4. As of January 2, 2001, WPSC has divested its interest in transmission facilities to the American Transmission Company, LLC, an independent transmission owner within the meaning of Wis. Stat. § 196.485(1)(dm).

5. The November 14, 2000, Horizontal Market Power in Wisconsin Electricity Markets study performed by Tabors, Caramanis, and Associates of Cambridge, Massachusetts, for the Commission pursuant to Wis. Stat. § 196.025(5) demonstrated, via computer modeling of Wisconsin electricity markets, that WPSC did not wield horizontal market power in eastern Wisconsin during any period.

6. Both WPSC and WPS-PDI have had market-based rate authority from FERC since 1996.

Any person who desires to comment on the application shall file submit an original and 20 copies no later than noon on Friday, April 6, 2001. The Commission will accept filing by fax if submitted no later than noon on Thursday, April 5, 2001. Fax filing cover sheets must state "Official Filing" and include the docket number and the number of pages (limit of 20 pages). File by one mode only.

**NOTICE IS GIVEN** that the Commission considers it necessary, in order to carry out its duties, to investigate all books, accounts, practices, and activities of the applicant. The expenses incurred or to be incurred by the Commission which are reasonably attributable to such an investigation will be assessed against and collected from the applicant in accordance with the provisions of Wis. Stat. § 196.85 and Wis. Admin. Code ch. PSC 5.

This is a Type III action under Wis. Admin. Code § PSC 4.10(3). Since no unusual circumstances have come to the attention of the Commission which indicate that significant environmental consequences are likely, neither an environmental impact statement under Wis. Stat. § 1.11 nor an environmental assessment is required.

The Commission does not discriminate on the basis of disability in the provision of programs, services, or employment. Any person with a disability who needs accommodations to participate in this proceeding or who needs to obtain this document in a different format should contact the case coordinator listed below.

Copies of the WPS-PDI application and market power screen are available upon request from the Commission. Questions regarding this matter may be directed to case coordinator Randel Pilo at (608) 267-1474.

Dated at Madison, Wisconsin, \_\_\_\_\_

By the Commission:

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Edward S. Marion  
Assistant Secretary to the Commission

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